

RECEIVED
SDNY PRO SE OFFICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARK MCKINLEY

Write the full name of each plaintiff.

No. 20 CV 3606 [KPF]
(To be filled out by Clerk's Office)

-against-

AMENDED
COMPLAINT
(Prisoner)

DETECTIVE KYLE CREVATAS #24662

DETECTIVE LOGAN PAVANO #28 / OFFICER EDGAR GARCIA #3118 Do you want a jury trial?
☒ Yes ☐ No

DETECTIVE SEAN BROWN #41

THE CITY OF NEW YORK

Write the full name of each defendant. If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed above must be identical to those contained in Section IV.

NOTICE

The public can access electronic court files. For privacy and security reasons, papers filed with the court should therefore *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number. See Federal Rule of Civil Procedure 5.2.

I. LEGAL BASIS FOR CLAIM

State below the federal legal basis for your claim, if known. This form is designed primarily for prisoners challenging the constitutionality of their conditions of confinement; those claims are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

☒ Violation of my federal constitutional rights

☐ Other: _____

II. PLAINTIFF INFORMATION

Each plaintiff must provide the following information. Attach additional pages if necessary.

<u>MARK</u>	<u></u>	<u>MCKINLEY</u>
First Name	Middle Initial	Last Name

State any other names (or different forms of your name) you have ever used, including any name you have used in previously filing a lawsuit.

18-A-3270 (DIN) (NYSID) 999130H

Prisoner ID # (if you have previously been in another agency's custody, please specify each agency and the ID number (such as your DIN or NYSID) under which you were held)

MARCY CORRECTIONAL FACILITY

Current Place of Detention

D.O BOX 3600

Institutional Address

<u>MARCY</u>	<u>NEW YORK</u>	<u>13403</u>
County, City	State	Zip Code

III. PRISONER STATUS

Indicate below whether you are a prisoner or other confined person:

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced prisoner
- ☐ Other: _____

IV. DEFENDANT INFORMATION

To the best of your ability, provide the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint on the defendant. Make sure that the defendants listed below are identical to those listed in the caption. Attach additional pages as necessary.

Defendant 1: KYLE CREVATAS 24662
 First Name Last Name Shield #
ASSIGNED TO NARCOTICS BOROUGH MANHATTAN SOUTH
 Current Job Title (or other identifying information)
ONE POLICE PLAZA, ROOM 110C
 Current Work Address
NEW YORK NY 10038
 County, City State Zip Code

Defendant 2: SEAN BROWN 41
 First Name Last Name Shield #
ASSIGNED TO NARCOTICS BOROUGH MANHATTAN SOUTH
 Current Job Title (or other identifying information)
ONE POLICE PLAZA, ROOM 110C
 Current Work Address
NEW YORK NY 10038
 County, City State Zip Code

Defendant 3: LOGAN PAYANO 28
 First Name Last Name Shield #
DETECTIVE ASSIGNED TO NARCOTICS BOROUGH SOUTH
 Current Job Title (or other identifying information)
ONE POLICE PLAZA, ROOM 110C
 Current Work Address
NEW YORK NY 10038
 County, City State Zip Code

Defendant 4: EDGAR GARCIA 3118
 First Name Last Name Shield #
OFFICER ASSIGNED TO THE 1ST PRECINCT DETECTIVE SQUAD
 Current Job Title (or other identifying information)
16 ERICSSON PLACE
 Current Work Address
NEW YORK NY 10013
 County, City State Zip Code

DEFENDANT 5: THE CITY OF NEW YORK
 100 CHURCH STREET
 NEW YORK, NEW YORK 10007

V. STATEMENT OF CLAIM

A Place(s) of occurrence: 64 ESSEX ST. NEW YORK, NY. 10002 / 17TH PRECINCT, NY, NY

B Date(s) of occurrence: MARCH 27, 2018

C FACTS:

State here briefly the FACTS that support your case. Describe what happened, how you were harmed, and how each defendant was personally involved in the alleged wrongful actions. Attach additional pages as necessary.

¹ ON MARCH 27, 2018 WHILE WAITING FOR THE ELEVATOR INSIDE MY PLACE OF RESIDENCE LOCATED ON 64 ESSEX ST. APT 76 NY, NY. 10002. I WAS TACKLED, KICKED, PUNCHED AND ASSAULTED BY FOUR MAYBE FIVE MEN WEARING DARK COLORED HOODED SWEAT SHIRTS. ² WHILE ON THE FLOOR THE MEN CONTINUED THIS ASSAULT BY PUNCHING ME AND GOING INTO MY POCKETS. AS I CONTINUED TO SCREAM FOR HELP AS I THOUGHT I WAS BEING ROBBED. ³ ONE ASSAULTANT PRODUCED A BANG-EE AND SAID "WE ARE POLICE SHUT UP OR I'LL SHOOT." ⁴ AS I ASKED WHY I WAS BEING ARRESTED I WAS KICKED IN THE MOUTH. ⁵ I WAS THEN PUT INTO A DARK COLORED VAN AND TAKEN INTO A PRECINCT WHERE I WAS PUT INTO A ROOM AND STRIPPED DOWN TO MY BOXERS AND WAS HELD DOWN WHILE ANOTHER OFFICER WENT INTO MY ANUS AND UNDERNEATH MY SCROTUM AREA LOOKING FOR CONTRABAND. ⁶ WHEN NONE WAS FOUND I WAS TAKEN TO CENTRAL BOOKINGS MANHATTAN DETENTION CENTER AND CHARGED WITH RESISTING ARREST AND OBSTRUCTING GOVERNMENT ADMINISTRATION. ⁷ AFTER A COUPLE OF COURT APPEARANCES ALL CHARGES WAS DISMISSED ON AUGUST 2, 2018. ⁸ BECAUSE OF THIS WHOLE INCIDENT PAROLE VIOLATED ME FOR POLICE CONTACT. ⁹ I WAS JAILED FOR 16 DAYS ON Rikers ISLAND WHEN THE ARRESTING OFFICER KYLE CREVATAS CAME TO MY PAROLE HEARING AND TRIED TO FABRICATE HIS REPORT TO SEND ME BACK TO JAIL BUT THE ASSIGNED JUDGE ACKNOWLEDGED THE LIE ON TAPE RECORDED AND THOSE CHARGES

[SEE ATTACHED]

V. STATEMENT OF CLAIM ATTACHED 20 cv 3606-(KPF)

PAGE 1 OF 2

- D** 1 ON MARCH 27, 2018 WHILE WAITING FOR THE ELEVATOR INSIDE MY PLACE OF RESIDENCE LOCATED AT 64 ESSEX ST. APT. 7G NY, NY 10002, I WAS TACKLED, KICKED AND ASSAULTED BY FOUR MAYBE FIVE MEN IN DARK COLORED HOODED SWEATSHIRTS [EXCESSIVE FORCE, FAILURE TO PROTECT, EQUAL PROTECTION]
- 2 DETECTIVE KYLE CREVATAS, SHIELD #24662, TOLD ME TO "STOP SCREAMING WERE POLICE. SHUT UP OR I'LL SHOOT" I ASK WHY I WAS BEING ARRESTED I WAS KICKED IN THE MOUTH. I WAS THEN HANDCUFFED AND FLIPPED ONTO MY STOMACH, BY ANOTHER OFFICER DETECTIVE LOGAN PAVANO, SHIELD #28 WHILE HE BEGAN TO SEARCH MY POCKETS AND GO INSIDE MY PANTS AND INSIDE MY BOXER SHORTS UNDERWEAR WHILE I LAYED ON THE FLOOR [FALSE ARREST, SEARCH & SEIZURE, EXCESSIVE FORCE]
- 3 NOTHING WAS FOUND. I WAS DRAGGED VIOLENTLY BY ANOTHER OFFICER WHO ASSISTED THE ASSAULT - EDGAR GARCIA SHIELD #3118, WHO WAS MAKING RACIAL SLURS AS I WAS BEING DRAGGED BY MY ARMS INTO A BLACK VAN AND DROVE TO A POLICE STATION (NYC PCT. 007) AND THROWN INTO A HOLDING CELL [FALSE IMPRISONMENT, EXCESSIVE FORCE, CRUEL & UNUSUAL PUNISHMENT]
- 4 I WAS LED TO ANOTHER AREA IN THE PRECINCT BY ANOTHER OFFICER SEAN BROWN #41 BROWN SKIN AFRICAN AMERICAN WORKING IN THE SEVENTH PRECINCT AS A SEARCHER. WHERE HE PUT ON GLOVES AND HE FORCEFULLY TOOK HIS HANDS INTO MY UNDERWEAR PULLED THEM DOWN AND SEARCHED MY ANUS AND SCROTUM AREA FOR CONTRABAND [EXCESSIVE FORCE, SEARCH & SEIZURE, CRUEL & UNUSUAL PUNISHMENT, FOURTH, EIGHTH, FOURTEENTH AMENDMENT VIOLATION, SEXUAL ASSAULT (BY SEARCHERS)]

MARK McKinley

Race: Black
Ethnicity: Not Hispanic
Height: 6' 02"
Weight: 170
SSN: 125-74-1479
Age at time of crime/arrest: 29
Address: 64 ESSEX STREET, MANHATTAN, NY
Fax Number: M12030
Place of Arrest: NYCPD 7
Arrest Type: Unknown
*** Date of Crime:** March 27, 2018
Place of Crime: New York County, NY
Criminal Justice Tracking No.: 68539672Z
*** Arresting Agency:** NYCPD PCT 007
*** Arresting Officer ID:** 947932
Arrest Number: M18617904
Arraignment: New York County Criminal Court

Arrest Charges:

-- **Resisting Arrest**

PL 205.30 Class A Misdemeanor Degree 0 NCIC 4801

-- **Obstruct Governmental Administration-2nd Degree**

PL 195.05 Class A Misdemeanor Degree 2 NCIC 5099

Court Case Information

-- **Court:** New York County Criminal Court **Case Number:** 2018NY015310

March 28, 2018

Initial Report Of Docket Number

March 28, 2018

Arraigned

-- **Resisting Arrest**

PL 205.30 Class A Misdemeanor NCIC 4801

-- **Obstruct Governmental Administration-2nd Degree**

PL 195.05 Class A Misdemeanor NCIC 5099

August 02, 2018

Dismissed

-- **Resisting Arrest**

PL 205.30 Class A Misdemeanor NCIC 4801

-- **Obstruct Governmental Administration-2nd Degree**

CRIMINAL COURT OF THE CITY OF NEW YORK
COUNTY OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK
VS

CERTIFICATE OF DISPOSITION
NUMBER: 555799

MCKINLEY, MARK JR
Defendant

64 ESSEX STREET
Address

NEW YORK NY
City State Zip

Docket Number: 2018NY015310

PL 205.30 00 AM, PL 195.05 00 AM,
Arraignment Charges

11/13/1988
Date of Birth

9991330H
NYSID Number

03/27/2018
Date of Arrest/Issue

Summons No:

Case Disposition Information:

Date Court Action
08/02/2018 DISMISSED - MOTION OF DA

Judge Part
WESTON, C C

NO FEE CERTIFICATION

GOVERNMENT AGENCY COUNSEL ASSIGNED

NO RECORD OF ATTORNEY READILY AVAILABLE. DEFENDANT STATES COUNSEL WAS ASSIGNED

SOURCE ACCUSATORY INSTRUMENT DOCKET BOOK/CRIMS CRC3030 [CRS963]

I HEREBY CERTIFY THAT THIS IS A TRUE EXCERPT OF THE RECORD ON FILE IN
THIS COURT.

MLECZKOWSKI, T
COURT OFFICIAL SIGNATURE AND SEAL

10/18/2018
DATE FEE: NONE

(CAUTION: THIS DOCUMENT IS NOT OFFICIAL UNLESS EMBOSSED WITH THE COURT
SEAL OVER THE SIGNATURE OF THE COURT OFFICIAL.)

SEALED

New History NYSID Number Search (QNH#)

=====

Discharged After April 25, 1990

Din = Days Incarcerated Total Per Record

Bran	Nysid #	Book&case#	Last Name	First Name	Admit Date	Din	Disc Date	Last Hou
BECAUSE OF	09991330H	1411802819	MCKINLEY	MARK	09-MAY-18	16	24-MAY-18	CIF
THE FALSE ARREST	09991330H	3491020673	MCKINLEY	MARK	29-DEC-10	210	26-JUL-11	ARD
AND OFFICER	09991330H	3491611729	MCKINLEY	MARK	30-OCT-16	447	19-JAN-18	MDC
#947732	09991330H	3491412003	SEABROOK	GLENN	No Public Record			
Police Contact,	09991330H	3491414618	MCKINLEY	MARK	24-OCT-14	56	18-DEC-14	CIF
Parole violated	09991330H	3491805233	MCKINLEY	MARK	12-JUL-18	41	21-AUG-18	MDC
Me AND I spent	09991330H	8751200673	MCKINLEY	MARK	09-MAR-12	13	21-MAR-12	ARD

16 DAYS in Rikers
 Island AND I lost
 Everything I owned
 job, Housing. I started
 Mental Health Services
 Because of the Mental
 Distress and Anguish I
 Under went.

VII. PLAINTIFF'S CERTIFICATION AND WARNINGS


By signing below, I certify to the best of my knowledge, information, and belief that: (1) the complaint is not being presented for an improper purpose (such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation); (2) the claims are supported by existing law or by a nonfrivolous argument to change existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Federal Rule of Civil Procedure 11.

I understand that if I file three or more cases while I am a prisoner that are dismissed as frivolous, malicious, or for failure to state a claim, I may be denied *in forma pauperis* status in future cases.

I also understand that prisoners must exhaust administrative procedures before filing an action in federal court about prison conditions, 42 U.S.C. § 1997e(a), and that my case may be dismissed if I have not exhausted administrative remedies as required.

I agree to provide the Clerk's Office with any changes to my address. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Each Plaintiff must sign and date the complaint. Attach additional pages if necessary. If seeking to proceed without prepayment of fees, each plaintiff must also submit an IFP application.

<u>NOVEMBER 22 2020</u>		
Dated		Plaintiff's Signature
<u>MARK</u>		<u>MCKINLEY</u>
First Name	Middle Initial	Last Name
<u>MARCY CORRECTIONAL FACILITY, P.O. BOX 3600</u>		
Prison Address		
<u>MARCY</u>	<u>NY</u>	<u>13403</u>
County, City	State	Zip Code

Date on which I am delivering this complaint to prison authorities for mailing: Nov 24, 2020

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF ONEIDA) ss.:
~~CHEMUNG~~

I, MARK MCKINLEY, being duly sworn, deposes and says that:

1. I am a party to this action, 18 years or older, and an inmate at Elmira Correctional Facility, P.O. Box 500, Elmira, New York.

2. On the 24 day of NOVEMBER, 2020, I served the following described paper(s): AMENDED COMPLAINT TO THE UNITED STATE DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK by mailing the paper(s) to the person at the address designated by him or her for that purpose by depositing the same in a first class, postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the above-mentioned facility for the United States Postal Office within the State of New York. The name of the person or names of the persons served and the address or addresses at which service was made are as follows:

PRO SE INTAKE OFFICE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
40 FOLEY SQUARE, RM 105
NEW YORK, NEW YORK 10007

ANDREW B SPEARS
ASSISTANT CORPORATION COUNSEL
SPECIAL FEDERAL LITIGATION
DIVISION 100 CHURCH ST. RM. 3-221
NEW YORK, NEW YORK 10007

Dated: _____, 20____
CheMung County, New York
ONEIDA County,

Respectfully submitted,

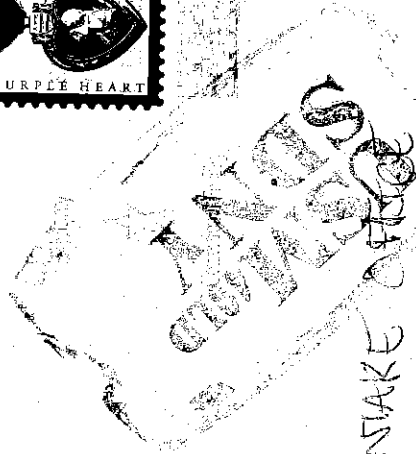
Sworn to Before me this 23rd
day of November 2020

[Signature]
NOTARY PUBLIC

DAWN M. CALABRESE
NOTARY PUBLIC - STATE OF NEW YORK
Registration No. 01CA5038491
Qualified in Oneida County
Commission Expires: 10/1/2023

MARCY CORRECTIONAL FACILITY
BOX 3600
MARCY, N.Y. 13403-3600

NAME: MARK NICK MILEY DIN: 18A3270



PRO SE INTAKE OFFICE
UNITED STATES DISTRICT OF NEW YORK
400 SOUTH ST. ROOM 105
NEW YORK, N.Y. 10007

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DEC 1 PM 1:30
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